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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/734,718	12/15/2003	Edward A. Clapper	CLC 837	2358
34356	7590	10/04/2004	EXAMINER	
ASHKAN NAJAFI, P.A.			MENDIRATTA, VISHU K	
113 LAMPLIGHTER LANE			ART UNIT	PAPER NUMBER
PONTE VERDA BEACH, FL 32082			3712	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,718	<b>Applicant(s)</b> CLAPPER, EDWARD A.	
	<b>Examiner</b> Vishu K Mendiratta	<b>Art Unit</b> 3712	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,5,6,9 rejected under 35 U.S.C. 103(a) as being unpatentable over McWilliams (6530571) in view of Gaetano (4165710) and Karthaus (3190653).

McWilliams teaches a baseball game board with baseball field (24), surrounding walls (16), a six sided die (52), means for displaying and counting score (18), question cards (60,62), game pieces (54,56).

McWilliams teaches all limitations except that it does not teach hand-held device for counting score with dials.

Gaetano teaches a mechanical hand-held score counting device with dials (Fig.1 also see 1:5-10).

As stated in Gaetano such devices are common in the art for the reason that the umpires can record scores without the help of others and without delaying the game.

In order to facilitate quick action and avoiding any delay in the game, it would have been obvious to provide hand-held scoring devices.

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One of ordinary skill in art at the time the invention was made would have suggested using handheld devices for counting scores to facilitate umpires to avoid delay in the game.

McWilliams teaches all limitations except that it does not teach playing pieces with spring loaded and oscillating upper portions.

Karthus teaches baseball player pieces with spring loaded upper portions.

Art area of board games is a very competitive amusement area. Providing funny pieces makes the game further amusing. However such changes are not critical to playing the game and commonly made for attracting players. In order to attract players, it would have been obvious to use wobbling and oscillating headed pieces to create fun in the game. One of ordinary skill in art at the time the invention was made would have suggested using funny pieces to attract players.

3. Claims 3,4,7,8,10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over McWilliams in view of Gaetano and Karthus as above in paragraph 2 and further in view of Jack (Des.417701).

McWilliams, Gaetano and Karthus teach all limitations except that they do not teach scoreboard with holding slots for writing implements.

Jack teaches a multipurpose score board with writing implement holder (Fig.1). Such multipurpose items are commonly used for proper handling of game items such as by placing implements in slots for orderly use of them. These arrangements are known and used for a long time in various situations. In a live game situation such arrangements are used in various configurations including.

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Whether a writing implement is placed on the game board surface or placed in a slot does not change the method of playing.

It may be noted that applicant's using of such accessories do not demonstrate any criticality in applicant's disclosure.

One of ordinary skill in art at the time the invention was made would have suggested slot arrangements for holding writing implements.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MacRae (4216966) teaches spring loaded pieces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a stylized 'V' followed by a series of loops and a long horizontal stroke extending to the right.

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3712

VKM  
September 30, 2004